IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 5273 of 2006

Shri Daulatram Hakimsingh Rajput ..Petitioner

vs.

1. Rupee Coop.Bank Ltd. and ors. ..Respondents

Shri Madhav Jamdar for petitioner.
Shri K.V.Tembe for respondents.

CORAM: S.C.DHARMADHIKARI J.
16th June, 2007

P.C.

1. Heard Shri Jamdar appearing for the petitioner who is admittedly the guarantor to the loan which has been sanctioned by respondent no.1 Bank in favour of other respondents. The document which has been annexed to the petition at page 55 itself would show that the loan was sanctioned and disbursed and the petitioner was one of the guarantors. He was impleaded as opponent no.2 to the dispute no.164 of 2002. That dispute has been decreed in favour of respodnent no.1 Bank and the appeal of the petitioner/guarantor is also dismissed.

2. From the perusal of the judgment passed by the Court below it is apparent that no plea of fraud was either raised or substantiated. Further, the documents sought to relied upon to establish the fraud do not pertain to the

original borrower's role or his wife in a business. The misconduct that is complained of by the Railway Authorities against the husband of the borrower is a distinct matter altogether. Therefore, all arguments which are sought to be raised for the first time before me cannot be entertained. Once the lower Appellate Court has observed that the petitioner/guarantor has signed the hypothecation deed and other related documents, so also he is aware of his liability in law, then no fault can be found with the impugned order dismissing the petitioner's appeal against the decree/award of the Cooperative Court.

3. This is not a court of further appeal nor is it permissible to reappreciate or reappraise the materials before the Court below in exercise of limited powers of this Court under Article 227 of the Constitution of India. There is no error apparent or perversity disclosed. The petition is dismissed. Needless to state that the petitioner can still seek details from respondent no.1 decree holder with regards to its claim and the manner in which it has proceeded to recover it from the borrower and the amount, if any, paid till date by the borrower.

(S.C.DHARMADHIKARI J.)